

IMPROVING EFFICIENCY & EFFECTIVENESS

Following the impetus provided by the former National Performance Review (now called the National Partnership for Reinventing Government or NPR) to reengineer and streamline agency operations, the Commission continues to search for better ways to perform its functions and to carry out its mission. Modernizing and streamlining regulations and reducing unnecessary regulatory burdens have been priorities for the Commission. Some of the Commission's efforts in FY 1999 and the first three months of FY 2000 include:

Large Trader Reporting

The Commission is reengineering its large trader reporting computer systems. This project will be completed in FY 2000. During FY 2000 and FY 2001, the Commission will implement a number of changes to segments of this system and provided system requirements and testing support for reengineering the entire integrated futures and option market surveillance system.

In FY 1998, the Commission began receiving daily reports on option large trader positions, greatly increasing the volume of reports requiring processing. To ease the processing workload, the Commission provided software to firms filing reports manually to enable them to make electronic filings via the Internet. As a result of that effort, virtually all large trader reports are now being filed electronically. This avoids the need to have staff enter the data manually. Since the activities in futures and options are closely related, the added information increased the effectiveness of market and financial surveillance by allowing staff to judge better the activities of large traders and futures industry firms. In adopting daily option large trader reporting, the Commission more closely aligned its reporting requirements with those of the exchanges. This action may allow the Commission to act as a central collection point for large trader data, distributing position data to exchanges that do not desire to collect them independently. This will relieve firms of a duplicate reporting burden.

Listing New Contracts Via Exchange Certification

In FY 2000, the Commission modified its rules to permit exchanges to list commodity futures or option contracts for trading without Commission approval of the contract or its terms and conditions. This new listing procedure, adopted as an alternative to regular or fast-track procedures for contract market designation, was in response to concerns of representatives of US exchanges that the ability to list contracts more quickly than currently possible is necessary for them to meet competitive challenges by foreign exchanges and over-the-counter markets. To meet its statutory mission of ensuring

market integrity and customer protection, the Commission plans to place greater reliance on its existing oversight authorities to disapprove, alter, or supplement exchange rules or to take emergency action, as appropriate. The Commission stated that it is confident that commodity futures and option exchanges are ready to assume greater responsibility for ensuring that their new products meet the applicable statutory and regulatory requirements through cooperation with the Commission which will exercise greater oversight authority with decreased direct regulation.

Exchange Database System

The Commission completed the conversion of its Exchange Database computer system from a mainframe system to a client-server environment. The Commission continues to evaluate the Exchange Database system in light of its future needs, particularly emerging trading technologies and rapidly changing markets, in order to determine and implement the most appropriate means of meeting those needs.

In FY 1999, the Commission completed the requirements specification phase for a new system, which will meet the challenges of the future by providing tools of increased sophistication. These tools will aid futures trading investigators in discerning patterns of trading that suggest potential violations and complex patterns of violations, particularly violations that may be facilitated by the increased use of electronic trading systems. The system will enhance the types of data maintained and the frequency and methods through which data can be accepted. The system will be readily adaptable to data in different formats and from different types of sources, including electronic trading systems. Implementation is expected to take place in phases beginning in FY 2000.

Electronic Filing and Recordkeeping

The Commission continues its efforts to develop electronic filing programs. Additionally, the Commission has reviewed its regulatory program to streamline requirements and increase efficiency in connection with technological developments in electronic storage media while maintaining necessary safeguards.

- After extensively testing and modifying the electronic filing software, the Commission has found it reliable for the transmission, receipt, and review of financial reports. The Chicago regional office of the Commission recently allowed approximately 50 CME and CBT member-FCMs who file financial reports with the Commission to discontinue filing financial reports in paper copy, instead allowing them to file them in electronic form. FCMs now use the same electronic filing software to simultaneously file the same financial reports with the CBT, CME, and the Commission,

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thereby reducing a regulatory reporting burden on those firms. Commission staff recently installed the software in the New York and Los Angeles regional offices, where it will be tested for a short period of time. The Commission anticipates allowing most of the remaining exchange-member FCMs to file paper copy reports after the August 1999 filing date.

- Almost half of the FCMs registered with the Commission are not exchange members. As a result, they file their financial reports with NFA. Because of the special needs of the NFA, it adapted a different form of electronic filing software. NFA has agreed to convert and give to the Commission financial report data it receives in both electronic and paper form. The converted data will be compatible with the Commission's existing electronic data and can be analyzed using the same analysis software. In addition, the testing of the file format conversion of the NFA is in the final stages. If the conversion process proves to be viable, the Commission will explore with NFA the best possible filing procedures for these FCMs. One possible result will be that the Commission could consider amending its rules to allow NFA to become an official filing site for these FCMs. As an official filing site, NFA would be responsible for transmitting the financial reports to the Commission. FCMs filing financial statements with an official filing site would be relieved of filing the same statement concurrently with the Commission.
- The Commission adopted amendments to Commission Rule 1.31, which specifies the length of time registrants are required to maintain certain business records and permits representatives of the Commission and the DOJ to inspect and obtain copies of the records. The amendments expanded the types of media on which recordkeepers are permitted to store most categories of required records and relieved recordkeepers of the requirement to keep originals of most records. This action harmonizes many record-keeping requirements for firms regulated by both the CFTC and the SEC. Pursuant to the amendments, recordkeepers will have the flexibility necessary to maximize the cost reduction and time savings available from improved storage technology. At the same time, Commission auditors and investigators both will continue to enjoy timely access to reliable systems of records and have opportunities to make informal assessments of the practicality of expanding the scope of records eligible for electronic storage in the future.

Reductions of Regulatory Burdens

During FY 1999, Commission staff undertook several initiatives to reduce regulatory burdens. The Commission promulgated rule amendments and approved a related NFA rule to permit the use of two-part disclosure documents by CPOs. Two-part disclosure docu-

ments will enhance the ability of prospective pool participants to focus upon important disclosure items, which must be presented using "plain English" principles. The more detailed disclosure items will still be available in a second part of the disclosure document, but their separation from the most important items will allow for a more readable presentation.

The Commission also promulgated rule amendments and approved related NFA rules concerning the issuance of TLs to applicants for registration as APs, FBs, FTs, and guaranteed IBs. These rule changes permit NFA to issue TLs to certain applicants despite a "yes" answer to a disciplinary history question, which was previously forbidden no matter how minor or innocuous the matter might be and irrespective of whether it had been disclosed in connection with a prior registration and cleared.

Staff began work on several other regulatory initiatives during FY 1999 that ultimately may lead to further reductions of regulatory burdens. These include: 1) expansion of the qualified eligible participant (QEP) definition in Commission Rule 4.7 to include certain family trusts, charitable foundations, employees of a CPO or its affiliates, and employee investment vehicles, which would lessen the disclosure, reporting, and recordkeeping burdens on CPOs operating pools limited to these types of participants; 2) amendment of Commission Rule 4.5 to include as entities not considered to constitute commodity pools employee benefit plans defined as "church plans" under the Employee Retirement Income Security Act of 1974 (the staff may also develop proposals to codify certain staff letters as to what constitutes a commodity pool and to increase the amount of capital contributions that can be made to "small" pools, which is now \$200,000, before the operators must register as CPOs); and 3) modification of the definition of a "principal" for purposes of firm registration and disclosure, particularly with respect to which officers of a firm should be considered principals for these purposes.

Additional reductions of regulatory burdens were achieved by the following actions:

- Block Trading Advisory. On June 7, 1999, the Commission issued an Advisory on Alternative Execution (Block Trading) Procedures for the Futures Industry, whereby the Commission will consider contract market proposals to adopt alternative execution procedures for large size or other types of orders on a case-by-case basis under a flexible approach to the requirements of the CEA and the Commission's regulations. The Commission is reviewing the first exchange application to provide a block trading facility.
- Post-Order Allocation of Bunched Orders. In October 1998, the Commission adopted new Commission Rule 1.35(a-1)(5), which

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eliminates a recordkeeping requirement and permits account managers to allocate bunched orders at the end of a day. Specifically, the new rule eliminates the requirement that customer account identifiers be placed on order tickets before execution for certain customers and account managers.

- *NYMEX Noncompetitive Exchange of Futures Contracts for Qualifying Swap Agreements (EFS Transactions)*. On January 7, 1999, the Commission approved NYMEX Rule 6.21A which authorizes EFS transactions pursuant to the terms and conditions of a three-year pilot program. The pilot program represents an expansion of the types of noncompetitive transactions that previously have been approved by the Commission. NYMEX believes that EFS transactions will 1) enhance the use of the exchange as a risk transfer medium and centralized market; 2) aid in linking the on-exchange futures and off-exchange swaps markets; and 3) allow market participants to manage the risks associated with their swap positions more efficiently.

Use of the Internet

The Commission uses the Internet to make information and assistance available to the general public. The Commission Web site (<http://www.cftc.gov>) provides information about the Commission and its work including press releases; speeches of Commissioners; the *Weekly Advisory* (which includes Commission events, meetings, news, seriatim actions, *Federal Register* notices and comment periods, initial decisions, and opinions and orders), the *Commitment of Trader Reports*, and other reports from the Market Surveillance, Analysis, and Research program; and the *Proceedings Bulletin*. The Commission Web site also provides the public with information concerning trader sanctions, registration suspensions, reparations, and its Year 2000 compliance program. The Web site also hosts a public questionnaire that encourages the public to report suspected commodity market abuses.

During FY 2000, the Commission will enhance the information storage and search capabilities of its Internet and intranet Web sites, especially with respect to the imaging and document management services which will be made available to all divisions and offices; investigate using the intranet for workflow routing; and implement a pilot application involving a mission support information system and the intranet.

Internet Monitoring

The Division of Enforcement monitors the Internet for illegal activity involving futures and options. In FY 1999, the Division of Enforcement continued to bolster its surveillance efforts. The Division greatly expanded its surveillance program this year by enlisting the

help of its investigators nationwide. Investigators review the contents of futures and options related Web sites to identify potential misconduct. This monitoring of the Internet has generated dozens of enforcement inquiries concerning issues such as possible registration violations, possible misrepresentations of the success of trading programs and the offer of potentially illegal, off-exchange products. Several enforcement actions have been filed where the violative conduct involved use of the Internet.

In addition to its usual Internet surveillance program, on November 12, 1998, the Division participated in an "Internet Surf Day" with the Federal Trade Commission (FTC), North American Securities Administrators Association, National Association of Securities Dealers Regulation, Inc., and thirty state securities regulators. On that day, Division staff, in conjunction with staff from the other participating agencies, surfed over 400 Web sites and Usenet groups looking for bogus claims and illegal representations about investment opportunities. The surf results indicate that investors are being sought for both the traditional and the exotic investment opportunities, ranging from foreign currency, films and restaurants, Internet-related and "off-shore" investments, as well as private and public stock offerings.

Enforcement Modernization Project

The Enforcement program, Office of Information Resources Management (OIRM), and Office of the Inspector General (OIG) have undertaken a far-ranging review of the automated systems that Enforcement program staff use for recording and tracking Enforcement-related data. The ultimate goal is to create a database and document management system that will serve several purposes, including: 1) ensuring that Enforcement program staff can easily access and retrieve information regarding all documents in the control of the Enforcement program to facilitate activities such as internal review, litigation, and Freedom of Information Act (FOIA) searches; 2) consolidating several of the existing Enforcement program databases and information-capturing processes that provide a record of information tracked; and 3) providing Enforcement program staff with on-line access to several specific, often-used documents to facilitate the use of the documents and to automate the extraction of data from them. During the first quarter of FY 1999, OIRM tested and distributed to Enforcement staff software that produces Monthly Status Reports and compiles relevant enforcement statistics. During the second quarter, OIRM staff trained Enforcement staff in Washington, DC headquarters, New York, Chicago and Los Angeles regional offices in the use of new Monthly Status Reports System. The Monthly Status Report System is now operational in all Enforcement program offices.

Revisions to Rules of Practice (Part 10 Rules)

In April 1998, the Commission published a *Federal Register* notice proposing amendments to its Rules of Practice, commonly referred to as Part 10 Rules, which govern enforcement proceedings brought by the Commission under the CEA. In FY 1998, the Commission received comment from a variety of sources regarding the proposed revisions, and the final rules were published and took effect early in FY 1999. The amendments, which represent the first substantial revision of the rules since their promulgation in 1976, are intended to improve the overall fairness and efficiency of the administrative process and facilitate the use of statutory authority granted to the Commission in 1992 to require the payment of restitution by respondents in appropriate cases. In addition to restitution, most of the substantive amendments adopted by the Commission relate to prehearing procedures, including the disclosure of investigatory materials obtained by the Division of Enforcement, the production of witness statements, requests for admissions, and the issuance of subpoenas requiring the production of documents.

Consumer Advisory

In November 1998, the Commission issued a Consumer Advisory, warning investors about firms that lure consumers to buy commodity futures or options through claims that they can make a lot of money with little risk based on predictable seasonal demands, published reports, or well-known current events. The Consumer Advisory reports that companies making this claim often use advertisements on radio and television, as well as infomercials—program-length television commercials—to promote commodity futures or options. These advertisements promise quick riches, such as turning \$5,000 into \$20,000 in just a few months, by rushing into the commodities markets in advance of seasonal changes in the demand for certain commodities or well-known current events. The advisory explains why this sales pitch is false—namely that the market has already taken into account all known or predictable conditions, such as seasonal changes in the demand for a commodity or well-known information. The Consumer Advisory alerts the public to warning signs of possible fraudulent activity and lists precautions individuals should take before committing funds. The Commission issued a press release regarding the notice to consumer publications and posted the text of the advisory on the Commission Web site and with several futures-related Internet newsgroups.

Enforcement Task Forces

In August 1998, the GAO published its report concerning the Division of Enforcement's efforts following its reorganization in late 1995 and early 1996. (GAO Report GAO/GGD-98-193.) GAO acknowledged the many efforts the Commission made in the three years

since the initial study and made certain specific recommendations to further strengthen its Enforcement program. The Commission is following up on these recommendations. For example, the Division has formed a task force composed of attorneys and investigators representing the Division's headquarters and regional offices to determine what further training is required by staff, to identify—and where feasible, create—training opportunities, and to ensure that these opportunities are made available to staff members at the appropriate points in their careers. It has already instituted one new in-house training program. The Division has also established a task force that is developing a comprehensive and user-friendly procedures manual that will provide Division staff with guidance in all critical areas of the program. A significant portion of the manual is available on-line to staff nationwide. It includes a comprehensive outline of information critical to the Enforcement program with hyperlinks to instruction manuals, related statutes, and relevant case law.

Many other initiatives have been undertaken by the Division. These initiatives have resulted in a revitalized Division, which takes bold steps in recommending novel enforcement actions and appropriately significant sanctions. The Division continues to search for ways to enhance its effectiveness both procedurally and substantively.

Integrated Case Tracking of Reparations Cases

The Office of Proceedings and OIRM continue to enhance the integrated case tracking system used by the Office of Proceedings. This system provides up-to-date information and serves as an invaluable tool for tracking reparations cases. In FY 1999, reports and queries were developed or modified to provide additional information on the number of filings and the assignment and disposition of cases. In addition, we have developed and implemented a new and more efficient system for both the administrative sanctions and reparations sanctions lists. These systems are now Year 2000 compatible.

In FY 1999, the Office of Proceedings replaced its antiquated and inefficient filing system with a modern lateral mobile storage system. This system will dramatically improve office efficiency and effectiveness.

Freedom of Information Act Appeals Streamlined

During FY 1999, the Commission continued to implement improved tracking and response procedures instituted during FY 1998 in connection with FOIA and Privacy Act appeals to assure that its responses substantially complied with statutory deadlines. In FY 1999, responses were timely completed in 19 appeals out of 19 filed, many of which involved resolution of complex issues and/or review of voluminous responsive material.

Financial Management Improvements

- *Quarterly Performance Review Process.* In FY 1999, the Commission established a new Quarterly Performance Review (QPR) process. The QPR replaces and improves upon the Commission's existing Quarterly Objectives Review process. The QPR was adopted to enable the Commission to 1) align annual performance targets with longer-term strategic goals, and 2) report to Congress in March 2000 on effectiveness of the FY 1999 Annual Performance Plan. The new QPR is expected to yield the following efficiencies:
 - Streamline data collection and improve data consistency by collecting one uniform set of performance statistics for the GPRA and budget planning structures, as well as the Annual Report.
 - Minimize staff time required annually to prepare resource documentation throughout the fiscal planning process. The new data collection tool will allow quarterly "snapshots" which may then be consolidated to satisfy reporting for the annual budget submission. Prior to the QPR, there was no relationship between the quarterly and the annual snapshots.
 - Create a central repository of current and historical performance data that may be accessed by all divisions and offices as needed.
- *Federal Agencies Centralized Trial-Balance System II.* In an effort to streamline financial management reporting to US Treasury, the staff of the Office of Financial Management (OFM) are currently implementing a new Internet based software application, Federal Agencies Centralized Trial-Balance System II (FACTS II). FACTS II will be used in Fall 2000 to collect budget execution data that fulfills the requirements of the Report on Budget Execution (SF-133), the Year-End Closing Statement (SF-2108), and much of the initial set of data that will appear in the prior year column of the Program and Financing Schedule. FACTS II reporting will enable staff to submit one set of financial data, thereby, eliminating reconciliation of data and duplicate reporting. It improves the consistency of data reported across the government by relying on the US Standard General Ledger account adjusted trial balances.
- *Travel Management Upgrade.* In FY 2000, the Commission will upgrade its automated travel management system which streamlines the issuance of travel advances, authorizations, vouchers, and travel-related electronic and paper records. OFM uses these electronic records to keep pace with the growing workload without an increase in administrative staff. The upgrade will provide a Web-based version that is easier to use and provides additional

management reports, better auditing methods, and on-line rates for contract carriers, car rentals, and lodging. It will also facilitate the process for regional offices.

- *Migration of the Financial Management System from Mainframe.* In FY 1999, OFM and OIRM completed an assessment of the agency's Financial Management System (FMS) operation. The assessment was conducted to determine how new innovative technological changes would affect the Commission's business process and how the agency would use these new tools to support fiscally sound decisions. After exploring various options, the Commission opted to cross-service the FMS operation with the National Business Center of the Department of Interior. Cross-servicing allows the agency to meet Year 2000 and Debt Collection Improvement Act (DCIA) requirements as the Commission prepares to eliminate its mainframe in compliance with OMB guidance. As an added feature, the new system will provide a fixed assets tracking sub-system that integrates accounting and financial transactions with the Commission's inventory process. The process of building a database has begun and the new system is planned to be operational in FY 2000.
- *Budget Preparation Process Improvements.* Beginning with the FY 2000 process, OFM also took steps toward increasing the efficiency of the budget preparation process by creating a paperless environment through electronic sharing. Annual budget submissions are produced on-line via a Commission-wide shared network drive. For each submission, the preparation process begins with workshops, conducted by OFM and OIRM, to train division staff responsible for completing narrative and tabular exhibits. After division staff complete their on-line editing responsibilities, OFM consolidates all exhibits into one draft budget submission. Each submission includes graphics produced via linkages to OFM budget formulation spreadsheets. The submissions become final after OFM receives the edits of the Executive Director, Chairperson, and Commissioners. The use of the shared network drive facilitates production, saves time by eliminating the passing of hard copies from one reviewer to another, facilitates the tracking of changes from one editor to another, and increases the knowledge of division staff regarding their roles and responsibilities in the budget preparation process.

Automated Access to Research Information

The Commission provides its employees with automated research tools that make information readily accessible at their desktops and provide faster and more efficient search and retrieval capabilities. The Commission plans to improve the efficiency of many of its Library operations and procedures by establishing a Windows-based integrated library system that will provide automated cataloging, circulation, acquisition, and periodical control capabilities.

Information Technology Improvements

The Commission developed *Open Interest*, an intranet site to provide a broad array of information to its employees and to improve internal communications. When all intranet facilities are available, employees will have on-line access to the CEA and Commission Regulations and to documents such as legal briefs, case decisions, and memoranda to the Commission. In addition, employees will have direct access to current Commission activities, *Daily Newsclips*, employee benefits, internal instructions, staff information, and news.

In FY 1999, the Commission implemented a Windows-based remote dial-in facility to provide access to the Windows NT server-based system. This enables selected staff to perform the same functions from a remote computer as they can from their office PCs. Remote access greatly enhances the effectiveness of CFTC staff while they are in a travel status or otherwise out of the office.

In FY 1999, the Commission migrated its core network services, such as file handling, printing, security, and directory services, from Banyan servers to Microsoft Windows NT servers. The Commission moved its Financial Management System from a non-Year 2000 compliant mainframe system to a compliant system through a cross-servicing agreement with the Department of the Interior.

During FY 1999, the Commission modernized several of its mission support systems. The Integrated Surveillance System was reengineered to support most aspects of the market surveillance process with Windows applications, including support for the collection of position information on a daily basis for large option traders and integration of this information with futures positions to provide a more accurate view of the marketplace. Responsibility for reporting the positions of large option traders has been shifted from the exchanges to the FCM community. The Commission conducted an analysis of requirements for reengineering the trade practice investigation support system and automated the collection of case management statistics for the Division of Enforcement. In addition, it has pursued integration of case tracking and violation reporting databases for the Office of Proceedings.

The telephone systems in the Washington, DC headquarters, Chicago, Kansas City, and Los Angeles regional offices of the Commission were updated during FY 1999 to provide Year 2000 compliant voice mail services and improve service quality. In early FY 2000, the New York regional office telephone system was replaced with a Year 2000 compliant system that improved system quality and increased capability.

During FY 2000, the Commission will eliminate its mainframe computer, continue reengineering the Exchange Database support system, complete the reengineering of the Integrated Surveillance System, continue to modernize support for Division of Enforcement activities, increase the capacity of its local and wide area networks, deploy a pilot videoconferencing application, and investigate using Web applications for mission support functions.

Restructuring of Administrative Support Services

During FY 1999, the agency separated administrative services functions from personnel services to provide more efficient and effective support to programs through the new Office of Administrative Services (OAS). The new office continues to review and streamline operations to offer improved acquisition of goods and services and better response to daily support requests.

Better Access to Human Resources Information

The Office of Human Resources (OHR) continues its effort to design, test, and implement government-wide human resources systems and enhance its own automated customer capabilities. OHR worked with other small agencies and OPM to create and refine a system called Employee Express which allows federal employees to control changes to their personnel and payroll data and benefits elections by phone or over the Internet. Employee Express eliminates the need for completing and submitting forms by replacing them with user-friendly technology. Through the Commission's intranet, OHR is providing employees with immediate access to human resources references such as the National Finance Center, OPM, and the Thrift Savings Plan through hyperlinks to their Web sites. OHR will also make position descriptions, vacancy announcements and human resources reports available via the intranet to managers and supervisors. Another technological advancement, videoconferencing, will afford the agency an opportunity to conduct training sessions and meetings so that all Commission employees may simultaneously participate in programs and issues affecting the agency. OHR also established a Delegated Examining Unit to enhance the Commission's ability more effectively and expeditiously to fill vacant positions.